

JUL 20 2009

EDUCATION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

2009 JUL 20 P 4: 17

In the Matter of)
MUR 6097) CASE CLOSURE UNDER THE
ROY CARTER FOR CONGRESS AND) ENFORCEMENT PRIORITY
JOHN RHINEBERGER, AS TREASURER) SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6097 as a low-rated matter.

In this matter, the complainant, William Miller, Sr., alleges that Roy Carter for Congress and John Covert Rhineberger, in his official capacity as treasurer (collectively, the "Committee"), accepted excessive contributions and failed to report contributions related to a Committee fundraiser intended to be held on June 14, 2008. Specifically, the complainant alleges that the Committee accepted contributions from Joseph Burnett, which were in the form of limited edition packages involving access to the musical artist, Joseph Burnett, and special tickets to a concert. Additionally, Mr. Burnett allegedly provided candidate Roy Carter with an autographed guitar to auction off in order to benefit the Committee. Finally, the complainant alleges that the Committee failed to report any transactions, in conjunction with the contributions of the tickets or autographed guitar, for the event on the Committee's 2008 July Quarterly Report it filed with the Commission.

29044251553

29044251554

1 The Committee responded that the event scheduled for June 14, 2008 was canceled.
2 The treasurer for the Committee, John Rhineberger, stated that he personally paid for ten
3 tickets to the concert and, therefore, they were not donated by Mr. Burnett, as alleged in the
4 complaint. Mr. Rhineberger noted that four of the ten tickets he purchased were given to
5 contributors to the Committee who wanted to attend the concert. Thus, the Committee
6 supplied four tickets to contributors and according to Mr. Rhineberger the Committee still
7 owes him a balance of \$316 for the costs he fronted to the Committee.¹ The Committee
8 denies that the Mr. Burnett donated a guitar to the campaign. Instead, the Committee has
9 provided a receipt from a pawn shop showing that the guitar was purchased by the candidate
10 with the intention to auction off the instrument at the fundraising event scheduled for June
11 14, 2008. The Committee claims that since the event was canceled the guitar remained the
12 personal property of the candidate, and not a Committee asset.

13 We note that according to the Committee the fundraiser at issue in the complaint was
14 canceled. Thus, the costs associated with the preparation of the event, which were required
15 to be reported, appeared to have been *de minimus*. Additionally, the evidence and statements
16 provided by the Committee refute the allegation that the Committee accepted a guitar from
17 Mr. Burnett. Therefore, in considering the Commission's priorities and resources relative to
18 other matters pending on the Enforcement docket, the Office of General Counsel believes
19 that the Commission should exercise its prosecutorial discretion and dismiss this matter. *See*
20 *Heckler v. Chaney*, 470 U.S. 821 (1985).

¹ The Committee reported a \$250 contribution from Susan McCachren and a \$300 contribution from Mark Clark on its Amended 2008 July Quarterly Report. The Committee claims that the contributors were provided with two tickets each to the concert in recognition of their contributions. It should be noted that neither the Committee's 2008 July or October Quarterly Reports reflect the \$316 balance still owed to the Committee's treasurer for the costs associated with the tickets.

RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss
MUR 6097, close the file, and approve the appropriate letters.

Thomasenia P. Duncan
General Counsel

7/20/09
Date:

BY:

Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration

Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration